THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26622 of 2005

Dated 23-12-2005

Between:

G.Ramakrishna.

.. **PETITIONER**

AND

The District Collector (Social Welfare),

Visakhapatnam and others.

.. RESPONDENTS

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

ORDER

The petitioner was employed in the Visakhapatnam Port Trust as Chargehand, against a vacancy reserved in favour of S.Ts. On noticing that the social status claimed by the petitioner is not genuine, proceedings were initiated by the District Collector, Visakapatnam-first respondent herein, under the provisions of A.P.(Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 (for short "the Act"). The petitioner states that no order has been communicated to him so far. His complaint is that even before the proceedings initiated against him under the Act have culminated in any orders, the second respondent had initiated disciplinary proceedings and placed him under suspension through order dated 23-09-2005. It is also alleged that criminal proceedings were initiated for prosecuting him. He submits that the action initiated against him cannot be sustained in law.

Heard the learned counsel for the petitioner, the learned Government Pleader for Social Welfare and the learned Standing Counsel for the second respondent.

It is not in dispute that the petitioner was issued a show-cause notice dated 12-06-2005 by the first respondent in exercise of powers under the Act. The petitioner was directed to explain as to how the social status claimed can be sustained in law. The petitioner is under the impression that the final orders were not passed as yet. Today, the learned Government Pleader for Social Welfare has placed before this court, a copy of order dated 26-08-2005, passed by the first respondent. A perusal of the same discloses that the District Level Scrutiny Committee Headed by the Joint Collector submitted a report stating that the petitioner does not belong to S.T. and

that in fact he belongs to Devanga (B.C.) caste. The first respondent did not feel the necessity of canceling the caste certificate, inasmuch as the petitioner did not produce the original thereof. The various proceedings initiated by the second and third respondents are consequential to the order dated 26-08-2005 passed by the first respondent. Hence, as long as the said order is in force, no exception can be taken to the proceedings initiated by the second and third respondents.

It is not in dispute that the Act provides for an appeal against an order passed under Section 5 thereof. The petitioner can avail the remedy and seek appropriate interim orders. This court cannot go into merits of the order passed by the first respondent, at this stage.

Hence, the writ petition is disposed of, leaving it open to the petitioner, to avail the remedy of appeal provided for, under the Act. Since the petitioner states that the order passed by the first respondent was not communicated to him, the appeal shall be treated as having been presented within limitation, if it is filed within three weeks from today. There shall be interim stay of prosecution of the petitioner, for a period of four weeks from today. Within this time, it shall be open to the petitioner, to seek appropriate interim orders from the appellate authority. There shall be no order as to costs.

_____

23-12-2005

Note:

Issue C.C. in three days.

(B/o)

Prv